THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 25803 of 2006

16-04-2007

Between:-

M/s. Madina Dairy Farm, a proprietory concern,
At H.No.11-3-959/5, Old Mallepally, Hyderabad,
Rep., by its Proprietor Mohd. Haneef,
Mallepally, Hyderabad.

Petitioner

And

Municipal Corporation of Hyderabad,
Rep., by its Commissioner,
Lower Tank Bund Road,
Hyderabad.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 25803 of 2007

Oral order:

The petitioner is an unlicensed Dairy Farm operating from house No.11-3-959/5, Old Mallepally, Hyderabad. It assails the notice dated 09-11-2006 issued by the second respondent. The second respondent by the impugned notice specified that under Section 623 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act') a license is required for dealing in dairy products.

Section 623 of the Act enjoins that no person shall without or otherwise than in conformity with the terms of a license granted by the Commissioner in this behalf, carry on within the city the business of dairy man or use any place in the city as a dairy or for the sale of any dairy produce. Admittedly, the petitioner has no license issued

under Section 623 of the Act. The second respondent therefore by the impugned notice called upon the petitioner to shift the live stock outside the city premises within a month from the date of receipt of the notice failing which the live stock would be shifted by the respondent at the petitioner's risk and cost. The impugned order also intimated the petitioner that cattle are kept in the premises contrary to the relevant byelaws viz., within 200 meters of human habitation or plot of land approved for residential building construction and without sufficient open space with boundary.

The learned counsel for the petitioner concedes that a license is required and admits that the petitioner has no license. What the petitioner contends is that instead of passing an order directing the petitioner to close down the business at the premises in question and asking him to shift the live stock, the respondent should have imposed a penalty and permitted him to continue with the business.

The aforesaid contention does not commend acceptance by this Court. The petitioner cannot be permitted nor is the respondent-Corporation authorized to enable pursuit of a business which renders the lives of the inhabitants of the city and particularly the neighbours, miserable. The petitioner is required to obtain a license under the provisions of the Act and he has not. The petitioner's business therefore is unlawful and it has no fundamental right to pursue unlawful business. There are

no merits. The writ petition is accordingly dismissed. The interim order dated 29-12-2006 stands dissolved. No costs.

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GODA RAGHURAM, J

Dated:16-04-2007
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